IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/02/2004

CORAM

THE HONOURABLE MR.JUSTICE N.DHINAKAR
AND
THE HONOURABLE MR.JUSTICE D.MURUGESAN

Writ Appeal No.661 of 2000

Sir M.Venkata Subba Rao
Matriculation Higher Secondary
School Staff Association
rep. by its Secretary
55, Railway Station Road
Kodambakkam, Chennai-24 .. Appellant

-Vs-

Sir M.Venkata Subba Rao
Matriculation Higher Secondary
School rep. by its Correspondent
57-B, Thirumalaipillai Road
T.Nagar, Chennai-17 .. Respondent

Memorandum of Grounds of Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 16.11.99 made in W.P.No.11596 of 1999.

!For Appellant :: Mr.D.Hariparanthaman

^For Respondent :: Mr.S.Silambanan

:JUDGMENT

(Judgment of the Court was made by D.MURUGESAN, J.)

An interesting question, as to the dress code imposed by the management of a school on the teachers, arises for our consideration in this writ appeal. As the dress code imposed by the management of the school on the teachers is claimed for maintenance of discipline, we would like to add a few words regarding the education and the role of teachers, in our order, before dealing with the above question.

2. A glance at the history of education is interesting. It may be recalled that till the middle ages, education and religion were closely linked. Priests assumed the role of teachers and generally educational institutions were attached to places of worship. Later, education became a

community work. Thereafter, students were imparted education in gurukulams. In gurukulams, basically morals were taught to the students. The students were expected to serve the guru in his day-to-day affairs and in that process, were taught the discipline. Later, realising the importance of education, persons interested and dedicated, started educational institutions. These educational institutions were known as private educational institutions. Realising the importance of education, the Government also started schools.

3. The purpose of education has always been comprehensive enough to improve the development of all round personality of the individual. It is treated as a basic input in the country's development efforts and figure prominently in the strategy of national development. Educational institutions have become the most important socialising agent for students to provide curriculum which is life centred. A properly educated man has the good character and clear thinking. No civilised country can afford to ignore the education of the people. Modern democracy based on human dignity and equality should not remain idle only, but it should be made a live force. Education develops amongst students qualities of initiative, leadership and spirit of service to the community. Education means educating children in the great eternal principle of justice and might which underline the entire length of human existence, fitting a man to perform justly, skillfully and magnanimously all the official, both private and public, of peace and war. It also means cultivating manners, behaviour and judgment than bare and mere liberal learning. It means a complete development of the individuality of the child so that he can make an original contribution to human life according to the best of his capacity.

4. If we view the importance of education, the role of a teacher, in achieving the above, assumes importance. A teacher is always entrusted with some professional responsibilities that include fostering deep human relations, effective teaching, development of character, negotiating individual difference and greater and more effective involvement in curriculum development. Teacher is the main source of motivating students. Teachers are dealers of educational system. The efficiency of the system depends on the teacher. The teacher creates knowledge, learning, wisdom and also creates out of the students, men and women, equipped with certain skills and ability, which will enable them to face the challenges of life. He is the preserver of learning and destroyer of ignorance. The teacher is the principal instrument in awakening the child to cultural values. We need not elaborate further on the role of a teacher and the professional code of a teacher, as the above are only indicative.

5. The respondent-school in question is a matriculation school. The matriculation schools in Tamil Nadu form a separate category of their own with separate identity. These schools in Tamil Nadu and in the Union Territory of Pondicherry were once affiliated to the University of Madras. As the Syndicate of the University of Madras decided that the Universities need no longer control matriculation schools and communicated the decision to Government, the Government formed a separate Board of Matriculation Schools in G.O.Ms.No.2816, Education dated 29.11.76. The matriculation schools were allowed to retain their original structure. They

were permitted to levy fees and as such they were not eligible for any grant. They were free to adopt their own curriculum and make innovations that suit their needs. Later, a common curriculum for these schools was also introduced. During the year 1978, the Board of Matriculation Schools decided that a Code of Regulations for Matriculation Schools (hereinafter referred to as the "Regulations") must be framed. Accordingly, the Regulations were framed and notified on 1.6.78. These Regulations are applicable to the respondent-school.

6. Since an incidental question as to the applicability of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 to the school in question was raised, we deem it proper to discuss and decide the said question at first. The Government of Tamil Nadu enacted the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (hereinafter referred to as the "Act") in order to provide for the regulation of recognised private schools in the State of Tamil Nadu. Under the said Act, a new private school shall obtain permission from the Government under Section 4 of the Act. The procedures to be followed for obtaining permission and the grant of permission are not dealt with elaborately, as they are not required for the disposal of this writ appeal. The grant of permission under Section 6 of the Act entitles the school for recognition under Section 11 of the Act. Only such of those schools which has obtained permission and recognition were entitled to payment of grant under Section 14. In terms of the definition of a private school, such of those schools established with permission and recognition are governed by the said Act. Under Section 9 of the Act, a minority school need not get permission, but shall also get recognition, as the permission under the Act is for establishment of the school and the recognition is for the purpose of recognising the course. As already elaborated, the matriculation schools are governed by the regulations. In this context, it must be considered whether, in the absence of a specific enactment governing the matriculation schools, the provisions of the Act shall be automatically made applicable to those schools. This issue came up for consideration before P.Sathasivam, J. in the judgment in "TAMIL NADU MATRICULATION AND CBSE SCHOOLS TEACHERS' ASSOCIATION v. STATE OF TAMIL NADU AND OTHERS (20 02 W.L.R. 688)". After a detailed discussion, the learned Judge has held that in the absence of a specific provision making the Act applicable to the matriculation schools, it cannot be contended that the said Act would be applicable to the matriculation schools. The provisions of the Act is self-contained code insofar as the grant of permission and recognition to the private schools, established, administered and aided by the State Government under the Act. By the very nature of establishment of the matriculation schools without there being any aid, the Government did not thought it fit to make the provisions of the Act applicable mutatis mutandis to the matriculation schools also. Though the Government had not framed a separate enactment applicable to the matriculation schools, in view of the Regulations, we hold that the Regulations framed by the Government in the year 1978 shall alone be made applicable to the matriculation schools and not the Tamil Nadu Recognised Private Schools (Regulation) Act. We are entirely in agreement with the view of the learned single Judge in this regard.

7. With the above background, let us now consider the issue

raised in this appeal. The appellant is the Staff Association of Sir M. Venkata Subba Rao Matriculation Higher Secondary School, Chennai and is represented by its Secretary by name Asraf Ali. We are referring to the name of the Secretary for the purpose that it was argued before us by the management that on the date when the writ petition was filed, he was not a teacher of the school and consequently he would not have locus standi to file the writ petition in the capacity of Secretary of the Association.

8. The respondent-school management had prescribed a dress code in the form of Code of Conduct to the teachers. This code was in existence even when the deponent of the affidavit in the writ petition was appointed. From the acknowledgment of the deponent N.Asraf Ali dated 23.10.91, we find that the code was served on the deponent of the affidavit. There was no challenge to the said code. Paragraph (1) of the code relates to the dress regulation, wherein the teachers were directed to neatly dress. This code was sought to be modified by the impugned circular No.I/99 dated 12.2.99, which reads as under:-

CIRCULAR I/99 12.2.99

In partial modification of clause I of Code of Conduct, the following revised Dress Code will be implemented with immediate effect.

Masters should wear full trousers, full sleeve shirts and shoes with socks. Ties are optional.

Lady Teachers should wear sarees, blouse with sleeves or salwar kamiz with duppata.

T-shirts, shirts without collars, Jeans and Hawaiian chappals will not be allowed for both ladies and gents.

All the Masters and Lady Teachers should strictly adhere to this Dress Code, whenever and wherever they may be on the school campus."

9. Mr.D.Hariparanthaman, learned counsel appearing for the appellant-Association would almost reiterate the above grounds by arguing that any instructions or rules or regulations without a statutory backing cannot be insisted on the teachers. He would also submit that in the absence of any provision for imposing fine, the respondent-school management has no authority to impose fine for non-compliance of the dress code. He would submit that none of the Regulations enable the respondent-school management to impose either dress code or fine. He would further submit that the circular imposing dress code was insisted only in a vindictive manner to curtail the legitimate activities of the appellant-Association.

10. Mr.S.Silambanan, learned counsel appearing for the respondentschool management, on the other hand, would submit that the deponent of the affidavit retired on 16.6.99 and the writ petition filed by him on 26.6.99 is not maintainable. He would submit that the dress code was introduced only to maintain uniform discipline not only amongst the students,

but also amongst the teachers. When the said dress code is imposed uniformly in respect of all teachers, question of either discrimination or vindictiveness does not arise. Question of victimisation is only intended for the purpose of the case.

11. We have carefully considered the above submissions. Let us now first consider as to whether the respondent-school management has the power to issue circulars containing code of conduct for the teachers. Regulation 3 of the Regulations relates to the responsibility of maintenance and control of every recognised school to vest in a governing body. It shall be responsible for the fulfillment of all the conditions upon which recognition is granted. In fact the governing body may entrust the management of the school to a Manager or to a Correspondent responsible to it. Regulation 21 relates to imposition of minor punishments and the same reads as under:-

"21. Minor Punishments.--The management may impose any of the following minor punishment on the said teacher or a member of non-teaching staff for any irregularity or breach of the code of conduct on the part of the said teacher or a member of non-teaching staff.

(i) Censure (ii) withholding of increment with or without cumulative effect (iii) Recovery from pay to the extent necessary of the monetary value equivalent to the amount of increments ordered to be withheld where such an order cannot be given effect to:

Provided the management follows all the procedure as laid down for awarding major punishment and arrives at the decision of awarding a punishment."

Regulation 22 is relevant for deciding the issue and the same reads as under:-

22. Agreement.--The management shall enter into an agreement with the teacher or a member of non-teaching staff in forms given in Annexure VIII if the appointment is for a period exceeding six months.

Three copies of the agreement shall be executed. One copy shall be furnished to the teacher or a member of non-teaching staff concerned the other copy shall be retained by the management and the third copy shall be forwarded to the Inspector."

As per Regulation 22, an agreement shall be executed in the form given in Annexure VIII, if the appointment is for a period exceeding six months. Clause 6 of Annexure VIII reads as under:-

"That the said teacher shall confirm to all the rules and regulations for the time being in force in the said school and obey all lawful orders and directions as he shall from time to time receive from any authorised officer of the said school."

12. On a combined reading of the above provisions, it is seen that the Board of Matriculation Schools has the overall control as to the maintenance of the school and also to issue directions from time to time to the teachers, and on such directions, the teachers shall confirm to the same. The power of the management of the school to issue the impugned circular prescribing dress code shall be traceable to clause 6 of Annexure VIII (Agreement). In that view of the matter, we do not find any merit in the contention of the learned counsel for appellant that the respondent-school

management has no power to issue circulars prescribing the dress code.

13. The next question to be considered is, how far the imposition of dress code would be reasonable. As we have emphasised the need for education and correspondingly the responsibility of a teacher in bringing up a student to be useful to the nation, we consider that the Court would be very slow in interfering with the internal administration of the management of the school, more particularly, in the matter of discipline. We have already traced out the power of the management to issue circulars prescribing dress code. A perusal of the circular reveals that the dress code is uniformly made applicable to all the teachers. We do not find any discrimination in this regard. Regulation of a dress code is only to maintain uniformity in discipline. In the absence of any discrimination, we do not find that the dress code could be called as unreasonable restriction warranting any challenge before this Court. Hence, we do not find any merit in the submission of the learned counsel for appellant that the dress code is unreasonable.

14. The above discussion and finding do not conclude the issue. Mr.D.Hariparanthaman, learned counsel for the appellant submitted that the circulars could be made applicable to the teachers only in the event the management had entered into agreements with the teachers, as contemplated under Regulation 22 of the Regulations. He would also submit that there were no agreements entered in the form given in Annexure VIII, and in the absence of the same, the management cannot issue circulars. We, absolutely, do not find any merit in the said submission. Mr.S.Silambanan, learned counsel for the respondentmanagement produced a copy of the appointment order issued to one Mrs.Beryl Concesso. It is not in dispute that the management enters into an agreement with individual teachers on the date of the appointment. The said appointment order is reproduced below:-

APPOINTMENT ORDER/AGREEMENT

Mrs.Beryl Concesso is appointed as a temporary teacher in Sir M. Venkata Subba Rao Matriculation Higher Secondary School, T.Nagar, Madras-6 00 017 for the academic year 1993-94 on a monthly basic salary of Rs.1200/- in the scale of pay of Rs.1200-30-1560-40-2040, D.A.-Rs.852/-, C.C.A.-Rs.70/-, H.R.A.-Rs.125/- with effect from 9th June, 1993.

The appointment is terminable by one month's notice or in lieu of one month's salary on either side without assigning any reason.

He/She will contribute to the Employees' Provident Fund as per the act of 1952, 8.33% of his/her basic salary and D.A. Combined. His/Her contribution will be deducted from his/her salary every month. The Management will also contribute an equal amount to the said fund provided he/she is in service and continues to do so after 60 days from the date of joining.

He/She will discharge his/her duties in strict accordance with the rules and regulations of the School. He/She will further be required to perform his/her duties in strict accordance with the orders, rules and regulations made/given by the Correspondent, Joint Correspondent and Head Master. He/She will

undertake not to leave in the middle of a term.

He/She will signify his/her willingness on the copy of this order.

He/She will deposit his/her original certificates with the school on taking up his/her appointment order.

Sd/-
Hon.Correspondent

Mrs.Beryl Concesso
Madras

Witness: Agreed to the conditions stated
therein.

Paragraph 4 of the appointment order refers to a clause similar to clause 6 of Annexure VIII. As per the said paragraph, a teacher is required to perform the duties in strict accordance with the orders, rules and regulations made by the Correspondent, Joint Correspondent and Head Master of the school. At the bottom of the appointment order, the teacher is asked to sign agreeing to the conditions. When once such conditions are agreed to by the teacher, merely because an agreement is not entered in the manner known in Annexure VIII, the teacher can be absolved of any violation or of not obeying to the orders issued by the management of the school. For the purpose of insistence on following the dress code, paragraph 4 of the appointment order is more than sufficient. That apart, there is no dispute that the management had issued the circular, which was served on the teachers on their appointment and the same was in force for long number of years. The said circular, prescribing dress code, was not challenged by the appellant, though copies were served under acknowledgment on each of the teachers. The challenge has been made only when an amendment is sought to be made by the impugned circular on 12.2.99. In this background, we are unable to find any force in the contention of the learned counsel for appellant that the amendment sought to be made is only to victimise the members of the appellant-Association. We find that no materials were placed, to satisfy ourselves, to sustain the plea of victimisation. A vague statement of victimisation cannot be a ground to interfere with the order, more particularly, when the circular is sought to be enforced uniformly on all the teachers without any discrimination. When the dress code is insisted on each and every teacher without any exception in order to follow uniformity in discipline, we do not find any interference is required in the challenge to the impugned circular. The dress code introduced is ultimately for the interest and welfare of the students. If the matter is viewed in the light of the observations made above, no interference is called for in the challenge to the order in the writ petition.

15. In regard to the arguments as to the power of a matriculation school to impose fine, reliance was placed on Regulation 21 relating to imposition of minor punishments. It is true that under Regulation

21, there is no provision for imposition of fine for any irregularity or breach of code of conduct on the part of the teachers. In fact, the code of conduct for teachers and other persons employed in a matriculation school is detailed under Appendix-VII of the Regulations. Imposition of dress code is not one of the code of conduct enumerated thereunder. However, we have traced the power of the management to enforce dress code, by issuance of directions in order to maintain uniform discipline, to clause 6 of Annexure VIII of the Regulations. When the management of the school is empowered to issue directions to the teachers to be followed, the necessary corollary would be that, for non compliance of such directions, the management is entitled to take action. We find that fine is one of the modes of imposition of penalty on the students for violation of the disciplinary regulations. Of course, the learned counsel for appellant is right in contending that in the event the directions are not followed, the management may be at liberty to take disciplinary action. In view of the fact that the overall control of the school shall vest with the management as per Regulation 3 coupled with the power under clause 6 of Annexure VIII of the Regulations, we do not find any irregularity in imposing fine on the teachers for violation of the directions issued in respect of the dress code. For the said reason, we are unable to accept the challenge to the impugned order imposing fine for non compliance of the directions issued by way of circulars in regard to the dress code.

16. For the foregoing reasons and also in view of the fact that the teachers are entrusted with not only teaching subjects prescribed under the syllabus, but also entrusted with the duty of inculcating discipline amongst the students, they should set high standards of discipline and should be a role model for the students. We have elaborately referred to the role of teachers in the earlier portion of the order. Dress code, in our view, is one of the modes to enforce discipline not only amongst the students, but also amongst the teachers. Such imposition of dress code for following uniform discipline cannot be the subject matter of litigation that too, at the instance of the teachers, who are vested with the responsibility of inculcating discipline amongst the students. The Court would be very slow to interfere in the matter of discipline imposed by the management of the school only on the ground that it has no statutory background. That apart, we have held that the management of the respondent school had the power to issue circulars in terms of clause 6 of Annexure VIII of the Regulations. In that view of the matter also, we are unable to accept the contention of the learned counsel for appellant in questioning the circular imposing penalty for not adhering to the dress code.

17. In the result, we find absolutely no merit in any of the challenges made before us. Accordingly, the writ appeal fails and the same is dismissed. No costs.

Index: yes
Internet: yes

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